

### **REMARKS**

Claims 1-8, 10, 15-21 and 23-28 remain in the application for further prosecution. Claims 9, 11-14 and 22 have been canceled without prejudice. In response to the Office Action mailed December 1, 2008, please consider the following remarks rendered in **appeal brief format**. The Examiner is invited to telephone the undersigned if the below remarks do not result in allowance of the claims, to discuss whether any agreement can be reached with respect to the claims to expedite prosecution and to avoid an appeal.

#### **1. REAL PARTY IN INTEREST**

The real party in interest of the above-captioned patent application is the Assignee, WMS Gaming, Inc.

#### **2. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences known to Appellant that will have a bearing on the Board's decision in an appeal of this matter.

#### **3. STATUS OF THE CLAIMS**

Claims 1-8, 10, 15-21 and 23-28 remain in the application for further prosecution. Claims 9, 11-14 and 22 have been canceled previously.

#### **4. STATUS OF AMENDMENTS**

No amendments have been made subsequent to the last amendment filed on May 14, 2008.

**5. SUMMARY OF CLAIMED SUBJECT MATTER**

Aspects of the present inventive subject matter include, but are not limited to, methods and systems for wireless activation of game features. The claimed subject matter is as follows:

1. A method of playing a gaming system played by a plurality of players where a jackpot is awarded, the method comprising:

players playing an underlying wagering game in which wagers are made by players;

when an outcome occurs in the underlying wagering game that identifies that a jackpot is to be awarded to at least one of said players, entering a special bonus event for all of said players presently playing the underlying wagering game, the special bonus event providing a chance to be awarded bonuses;

randomly selecting bonuses to be awarded in the special bonus event; and

randomly selecting more than one but less than all of said players to be awarded the randomly selected bonuses and excluding at least one player from being awarded any bonus, said randomly selected bonuses being in addition to any awards some of said players may win during continued play of the underlying wagering game.

21. A method of playing a gaming system played by a plurality of players where a jackpot is awarded, the method comprising:

permitting players to play underlying wagering games in which wagers are made by the players;

when an outcome occurs in one of the underlying wagering games that identifies that a jackpot is to be awarded to at least one player, entering a special bonus event for all players presently playing the underlying wagering games, the special bonus event providing a chance to be awarded bonuses;

randomly selected bonuses to be awarded; and

randomly selecting more than one but less than all players to be awarded the randomly selected bonuses in addition to any awards the some of the players may win during continued play of the underlying wagering games but excluding at least one player from winning any award, wherein the randomly selected bonuses are based upon a progressive bonus jackpot.

## **6. GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL**

I. Whether claims 1-8, 10, 15-21 and 23-28 were improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Luciano (U.S. Pat. No. 6,887,154) in view of Acres (U.S. Pat. No. 6,319,125).

Claims 1-8, 10, 15-21 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luciano (U.S. Pat. No. 6,887,154 B1) in view of Acres (U.S. Pat. No. 6,319,125). The Final Office Action asserted that Luciano teaches a method of playing a gaming system played by a plurality of players. The Final Office Action cited the abstract, Col. 2, ll. 20-67 and Col. 4, ll. 29-60 of Luciano as disclosing playing an underlying wagering game, when an outcome occurs in the underlying wagering game that identifies that a jackpot is to be awarded to

at least one of the players, entering a special bonus event for all of the players. (p. 2). The Final Office Action noted that Luciano “teaches that players who have an active status at the time of the progressive award triggering event are entitled to share in the secondary progressive prize (col. 3, ll. 1-3)” is analogous to all of the players playing the underlying wagering game. (p. 3). The Final Office Action noted that Acres discloses seven different formats and combination of bonuses for players including after specific trigger events, randomly selecting bonuses to be awarded in the special bonus event. The Final Office Action asserts that Acres discloses randomly selecting more than one but less than all of the players to be awarded the randomly selected bonuses. (p. 3).

## **7. ARGUMENT**

The present claims allow for some but not all random players playing over multiple gaming terminals the opportunity to be selected for a random award when one of the players triggers a communal bonus event. Neither of the references of record disclose these concepts.

### **A. The Deficiencies in Luciano And Acres**

Luciano relates to a system that awards all active players playing a game. A first award is paid to the player triggering a jackpot while a secondary bonus from a separate award pool is paid to all of the other players. (Abstract). The Final Office Action concedes that Luciano does not disclose randomly selected bonuses to be awarded and randomly selecting more than one but less than all of the players to be awarded the randomly selected bonuses. (pp. 2-3).

Acres generally relates to a gaming system with bonus prizes that may include one of several promotions such as a cash bonus, a mystery prize, a progressive jackpot, etc. (Col. 4, ll.

21-30 and Fig. 1). Acres discloses seven different forms of bonus prizes, however, only three of the bonus prizes are awarded to some subset of the players if one player hits a jackpot, namely, the cash bonus, mystery bonus and progressive bonus described on Col. 4, l. 65 to Col. 9, l. 13 of Acres. The other forms of bonuses in Acres such as welcome back bonus, match play bonus or personal progressive bonus are awarded only to qualified individual players alone. (See e.g., Col. 9, ll. 14-19, ll. 58-61, Col. 12, ll. 58-61 and Col. 14, ll. 61-63). For the multiple player bonuses, only one form of bonus prize can be awarded since the awarding of each of the forms of bonus prize is triggered by the coin-in collected pushing a prize pool over a certain threshold amount, such as a cash bonus amount or a randomly determined amount that is specific to that form of bonus prize. (See e.g., Col. 4, l. 66 - Col. 5, l. 1, Col. 5, l. 66 – Col. 6, l. 3, Col. 8, ll. 1-9). Since the thresholds for each form of bonus prize are triggered from the coin-in, there cannot be two different forms of bonus prizes in Acres, since the lower threshold bonus prize would always be triggered and therefore the second bonus prize could never be awarded. Applicant therefore contends that the relevant disclosure in Acres is a specific form of bonus prize such as the mystery prize as discussed on Col. 5, l. 65 to Col. 7, l. 64.

For each of the cash bonus, mystery bonus and progressive bonus forms, the bonus prize is awarded to a selected eligible player, while all the remaining players are awarded a fixed consolation prize. (see e.g., Col. 5, ll. 41-45 for the cash bonus prize, Col. 7, ll. 35-40 for the mystery bonus, Col. 55-59 for the progressive jackpot bonus prize). Acres does not disclose randomly selecting players as all players in Acres receive a consolation prize in any of the multi-player bonus forms. Thus Acres does not disclose excluding players from being awarded any prize.

In the pending claims, the exclusion of players heightens the anticipation when a jackpot is triggered in the bank of eligible games as players anticipate receiving an award but understand that they could be excluded. Thus, excitement is generated from the potential exclusion of the player from any prize unlike in Acres where all players are guaranteed either the primary prize or a consolation prize.

**B. Acres And Luciano Do Not Disclose Excluding One Player And Randomly Selecting More Than One But Less Than All of the Players To Be Awarded Randomly Selected Bonuses**

Independent claim 1 requires “excluding at least one player from being awarded any bonus” in addition to “randomly selecting more than one but less than all of said players to be awarded the randomly selected bonuses and excluding at least one player from any bonus.” Independent claim 21 requires “excluding at least one player from winning any award.” All of the players in the Acres forms of prize sequences either are awarded either the jackpot prize or a consolation prize. Even within the mystery bonus prize form relied on by the Final Office Action, multiple mystery bonuses may be available for certain players but other players who do not receive the multiple mystery bonuses are guaranteed a consolation prize. (Col. 7, ll. 36-43). Thus, Acres does not disclose excluding players from any prize, since only one player receives the promotional prize and all other players receive the consolation prize in the cash bonus, mystery bonus and progressive bonus forms.

The Final Office Action has cited Col. 4, ll. 30-32 of Acres which states “the bonus prize can also be tiered into a main bonus prize and multiple secondary bonus prizes, plus optional consolation prizes, and similar combinations.” (p. 4). However, this section only relates to the first bonus prize that is awarded to the prize player, Acres is silent as to whether such prizes may

be awarded to any other players in addition to the other awards. The remainder of Acres indicates that the bonus is only awarded to one player and not remaining players as required in the claims. The Final Office Action also cites Col. 5, ll. 41-43 which that “A consolation prize is awarded at all active gaming devices 300 except the winning gaming device 300.” (p. 4). However, this section supports Applicant’s position, since a player may only receive a bonus prize or a consolation prize. Both claims 1 and 21 require that “said randomly selected bonuses being in addition to any awards some of said players may win during continued play of the underlying wagering game” and “excluding at least one player from being awarded any bonus.” Acres therefore does not anticipate these elements since Acres only allows a player to win a bonus prize or a consolation prize and not both. Further Acres allows all players to win either the bonus or the consolation prize and therefore does not exclude one player from being awarded any bonus.

**C. Neither Acres Nor Luciano Disclose A Special Bonus Event When An Outcome Occurs in The Wagering Game That Identifies the Jackpot**

Independent Claims 1 and 21 are also allowable over the Acres and Luciano combination. These claims require “when an outcome occurs in the underlying wagering game that identifies that a jackpot is to be awarded to at least one of the players” a special bonus event is entered for all of the players. Luciano does not disclose entering into a special bonus event because when the progressive is triggered in Luciano, all of the players automatically either receive the primary prize or the secondary prize. Acres does not identify that a jackpot or any other bonus award is awarded based on an outcome occurring in the underlying wagering game. Acres discloses triggering a jackpot when the coin-in is collected, prior to any outcome in the wagering game. For example, in the mystery bonus form, the bonus is triggered to allow the cash bonus pool to

exceed a cash bonus amount or the mystery threshold amount for the mystery bonus or progressive jackpot. (Col. 4, l. 66 - Col. 5, l. 1, Col. 5, l. 66 – Col. 6, l. 3, Col. 8, ll. 1-9).

**D. Neither of The References Disclose Randomly Selecting Bonuses**

Claims 1 and 21 also require “randomly selecting bonuses to be awarded in the special bonus event.” The Final Office Action has asserted that the mystery bonus prize in Acres as disclosing the random selection of bonuses since there are three kinds of mystery bonuses to be awarded. (p. 4). However, the mystery bonus actually randomly selects the jackpot won by the initial triggering player such as between a car, a large cash prize or a rapid hit mystery prize which is awarded to one player only. (Col. 7, ll. 27-30). Therefore, the mystery prize is awarded to a single player and the consolation prize is a set amount awarded to the remainder of the players and therefore does not randomly select bonuses for the other players as required by the claims. (Col. 7, ll. 31-32). The independent claims require randomly selecting bonuses for multiple players excluding at least one player, and not simply one bonus jackpot to a single player as disclosed by Acres. Since Acres does not disclose randomly selecting multiple bonuses for players other than the jackpot winner, it does not anticipate the pending claims. The Final Office Action has explained that “these prizes to be awarded randomly instead of simple one bonus jackpot argued by the applicant” citing Col. 6, ll. 19-24 of Acres. (p. 5). However, this section only cites that there can be larger secondary cash prizes and consolation prizes. Nothing in this section indicates that other players are randomly awarded such an award or awards. In fact, a consistent reading of this section in the context of Acres would be that all players are awarded a prize, either a secondary cash prize or a consolation prize.



**Conclusion**

It is the Applicant's belief that all of the pending claims are in condition for allowance and action towards that end is respectfully requested.

If any matters may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact the Applicant's undersigned attorney at the number shown.

Respectfully submitted,

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By: /Wayne L. Tang/ - Reg. No. 36,028

Wayne L. Tang  
NIXON PEABODY LLP  
161 N. Clark Street, 48<sup>th</sup> Floor  
Chicago, Illinois 60601-3213  
(312) 425-3900 (telephone)  
(312) 425-3909 (telecopy)

ATTORNEY FOR APPLICANT